

## 1 HOUSE BILL NO. 186

2 INTRODUCED BY MATTHEWS

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE  
6 LICENSING AND REGULATION OF MOTOR VEHICLE DEALERS; AUTHORIZING WITHDRAWAL OF  
7 DEALER AND DEMONSTRATOR PLATES AND 20-DAY PERMITS IN CERTAIN CONDITIONS; REQUIRING  
8 DEALERS TO PAY OFF OUTSTANDING BALANCES ON TRADE-IN OR CONSIGNED VEHICLES WITHIN  
9 A CERTAIN PERIOD; REQUIRING A SECURED PARTY WHO HAS BEEN PAID IN FULL TO DELIVER A ~~KEY~~  
10 RELEASE WITHIN A CERTAIN PERIOD; REMOVING THE REQUIREMENT THAT A DEALER LICENSE BE  
11 LIMITED TO A 1-YEAR TERM AND ALLOWING THE LICENSE TO REMAIN VALID UNTIL SUSPENDED,  
12 REVOKED, OR CANCELED UPON SURRENDER; INCREASING BOND REQUIREMENTS FOR NEW AND  
13 USED MOTOR VEHICLE DEALERS, RECREATIONAL VEHICLE DEALERS, ~~AND~~ TRAILER DEALERS,  
14 WHOLESALEERS, AND AUTO AUCTIONS TO \$50,000 AND FOR MOTORCYCLE DEALERS TO \$15,000;  
15 REVISING THE REPORTING REQUIREMENTS CONCERNING DEALER PLATES; CLARIFYING THE GRACE  
16 PERIOD FOR DEALER AND DEMONSTRATOR PLATE USAGE; REVISING DEALER RECORDKEEPING  
17 REQUIREMENTS; REVISING THE PERIOD OF SUSPENSION OF A DEALER LICENSE; LIMITING THE  
18 EXEMPTION FROM REGISTRATION LAWS AND SPECIAL TRANSFER PRIVILEGES FOR DEALERS WHO  
19 FAIL TO FILE AN ANNUAL REPORT AND PAY ANNUAL FILING AND REGISTRATION FEES BEFORE  
20 CERTAIN DATES; ALLOWING A LICENSED AUTO AUCTION TO USE AUTO AUCTION LICENSE PLATES  
21 TO TRANSPORT VEHICLES BOTH TO AND FROM AUCTION TO A POINT OF STORAGE OR DELIVERY IN  
22 THIS STATE; CLARIFYING THE REQUIREMENT FOR DEALERS TO CARRY AND MAINTAIN ~~GARAGE~~  
23 GENERAL LIABILITY INSURANCE; REQUIRING INSURANCE CARRIERS TO NOTIFY THE DEPARTMENT  
24 OF JUSTICE UPON CANCELLATION OR TERMINATION OF A DEALER'S ~~GARAGE~~ GENERAL LIABILITY  
25 INSURANCE POLICY; REPLACING THE ANNUAL LICENSE RENEWAL REQUIREMENT WITH THE  
26 REQUIREMENT TO FILE AN ANNUAL REPORT AND PAY CERTAIN FEES; REQUIRING CERTAIN USED  
27 MOTOR VEHICLE DEALERS TO CERTIFY TO THE RETAIL SALE OF AT LEAST 12 VEHICLES IN THE  
28 PRIOR YEAR OR PAY AN ADDITIONAL REGISTRATION FEE OF \$25; PROHIBITING THE DEPARTMENT  
29 OF JUSTICE FROM RENEWING DEALER OR DEMONSTRATOR PLATES FOR A DEALER WHO HAS NOT  
30 FILED AN ANNUAL REPORT OR PAID REQUIRED FEES BY A CERTAIN DATE; PROHIBITING THE

1 DEPARTMENT OF JUSTICE FROM TRANSFERRING TITLE TO A DEALER WITHOUT REGISTERING THE  
 2 VEHICLE WHEN THE DEALER HAS NOT FILED AN ANNUAL REPORT OR PAID REQUIRED FEES BY A  
 3 CERTAIN DATE; REQUIRING THE DEPARTMENT OF JUSTICE TO INITIATE ADMINISTRATIVE ACTION TO  
 4 REVOKE A DEALER'S LICENSE WHEN THE DEALER FAILS TO FILE AN ANNUAL REPORT AND PAY FEES  
 5 BY A CERTAIN DATE; INCREASING THE DEALER AND WHOLESALER DEMONSTRATOR PLATE FEE TO  
 6 \$5; CLARIFYING REQUIREMENTS FOR USE OF DEMONSTRATOR PLATES; REVISING REQUIREMENTS  
 7 FOR THE CONTESTED CASE HEARING PROCESS TO CANCEL OR TERMINATE A MOTOR VEHICLE  
 8 FRANCHISE; INCREASING THE FEE FOR TRANSIT PLATES TO \$10 AND LIMITING THE NUMBER OF  
 9 SETS OF TRANSIT PLATES THAT MAY BE ISSUED TO A TRANSPORTER OF NEW MOTOR VEHICLES,  
 10 UNLESS NEED FOR ADDITIONAL PLATES IS DEMONSTRATED; AMENDING SECTIONS 61-4-101,  
 11 61-4-102, 61-4-104, 61-4-105, 61-4-107, 61-4-111, 61-4-120, 61-4-123, 61-4-124, 61-4-125, 61-4-129, 61-4-206,  
 12 AND 61-4-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15

16 NEW SECTION. **Section 1. Privileges incident to license -- withdrawal upon certain conditions.**

17 (1) The privileges of a dealer licensed under the provisions of this part to use and display a set of dealer plates  
 18 or a demonstrator plate on a motor vehicle held for sale by the dealer and to issue a 20-day permit, under the  
 19 authority of 61-4-111 or 61-4-112, upon the sale of a vehicle by the dealer are specifically conditioned on the  
 20 dealer's satisfaction of the bond requirements of 61-4-101(7) and the ~~garage~~ GENERAL liability insurance  
 21 coverage requirements of 61-4-123, without interruption or lapse.

22 (2) If the department is notified or determines that a dealer's bond or ~~garage~~ GENERAL liability insurance  
 23 has lapsed or been canceled, all dealer plates, demonstrator plates, and 20-day permits assigned or issued to  
 24 the dealer are subject to immediate withdrawal and confiscation, upon demand, by the department or a  
 25 compliance specialist, upon behalf of the department, and may not be returned to the dealer until the bond and  
 26 ~~garage~~ GENERAL liability insurance requirements have been satisfied.

27 (3) A dealer whose privileges are withdrawn under this section may otherwise engage in the dealer's  
 28 business operations during the period of withdrawal.

29 (4) If the lapse of bond or ~~garage~~ GENERAL liability insurance is not corrected with 30 days, the  
 30 department may initiate administrative action to suspend or revoke the dealer's license under 61-4-105(2).

1  
 2           **NEW SECTION. Section 2. Obligation of dealer to pay off liens on motor vehicles accepted in**  
 3 **trade or consignment -- duties of dealer and secured party ~~or lienholder~~.** (1) (a) If a dealer accepts a vehicle  
 4 in trade from a retail customer as part of the sale of another vehicle and there is an outstanding loan balance  
 5 owing on the traded vehicle, the dealer shall remit payment to the secured party ~~or lienholder~~ to whom the  
 6 balance on the traded vehicle is owed in an amount sufficient to satisfy the PERFECTED security interest ~~or lien~~  
 7 on the traded vehicle by the earlier of the following dates:

8           (i) 21 days from the date of acceptance of the vehicle in trade; or  
 9           (ii) 15 days from the date of the receipt by the dealer of payment in full from the sale of the traded  
 10 vehicle.

11           (b) If a dealer accepts a vehicle from an owner for sale upon consignment and there is an outstanding  
 12 loan balance owing on the consigned vehicle, the dealer shall remit payment to the secured party ~~or lienholder~~  
 13 to whom the balance on the consigned vehicle is owed in an amount sufficient to satisfy the PERFECTED security  
 14 interest ~~or lien~~ on the consigned vehicle within 15 days from the date of the receipt by the dealer of payment in  
 15 full for sale of the consigned vehicle.

16           (2) A secured party ~~or lienholder~~ who has been paid in full by a dealer in accordance with the terms of  
 17 this section shall ~~deliver~~ FORWARD to the department a properly executed ~~lien~~ release within:

18           (a) ~~4 business day~~ 15 BUSINESS DAYS after the business day on which the funds are received when the  
 19 funds are in cash, cashier's check, certified check, teller's check, or other certified source of funds;

20           (b) ~~3~~ 18 business days after the business day on which the funds are received when the funds are in  
 21 the form of a check drawn on a local originating depository institution; or

22           (c) ~~6~~ 21 business days after the business day on which the funds are received when the funds are in  
 23 the form of a check drawn on a nonlocal originating depository institution.

24           (3) For purposes of this section, "business day" means a weekday, excluding any weekday upon which  
 25 a legal holiday falls.

26  
 27           **Section 3.** Section 61-4-101, MCA, is amended to read:

28           **"61-4-101. Dealer's license -- types of licenses and terms -- plates -- bonds -- zoning.** (1) Except  
 29 as provided in 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on  
 30 consignment, or acting as a broker of a new motor vehicle or used motor vehicle, new or used recreational

1 vehicle, trailer (except a trailer having an unloaded weight of less than 500 pounds), motorcycle, quadricycle,  
 2 or special mobile equipment that is not registered in the person's name, unless the person is the holder of a  
 3 dealer's license issued by the department under this part.

4 (2) (a) The department is authorized to issue a dealer's license for one or more specified vehicle types  
 5 to any person ~~whom~~ it determines is qualified to hold a license under the provisions of this section. A dealer's  
 6 license may be issued for, and restricted to, one or more of the following vehicle types:

7 (i) new motor vehicle;

8 (ii) used motor vehicle;

9 (iii) new recreational vehicle;

10 (iv) used recreational vehicle;

11 (v) trailer or special mobile equipment; or

12 (vi) motorcycle or quadricycle.

13 ~~(b) For each type of dealer's license authorized, the~~ The department shall design and issue dealer and  
 14 demonstrator plates as provided in 61-4-102 and 61-4-129.

15 (c) With the exception of a licensed new motor vehicle dealer, a dealer licensed for a particular type of  
 16 vehicle may sell, trade, or accept on consignment only vehicles of the type for which the license is authorized,  
 17 unless the dealer's license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle  
 18 license. A new motor vehicle dealer is authorized to sell, trade, or accept on consignment new motor vehicles  
 19 or used motor vehicles.

20 ~~(d) Regardless of vehicle type, a dealer's license issued by the department has a term of 1 calendar~~  
 21 ~~year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.~~

22 (d) Subject to the provisions of 61-4-124, a dealer's license issued by the department is valid until:

23 (i) voluntarily returned to the department for surrender and cancellation upon the cessation of the  
 24 dealer's business operations; or

25 (ii) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor  
 26 vehicles.

27 (3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the  
 28 department, specifying the type or types of dealer's license sought. The application must be signed by the  
 29 applicant and contain a verification by the applicant, under penalty of law, that the information contained in the  
 30 application is true and correct. Any information provided in the license application process is subject to

1 independent verification by the department or an authorized representative of the department.

2 (b) After examining a license application and conducting an investigation necessary to verify the  
3 information contained in the application and if the department is satisfied that the applicant qualifies for the  
4 issuance of a license under the provisions of this chapter, the department may issue the license. The department  
5 may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for  
6 licensure or whose prior financial or other activities or criminal record, as determined by the department:

7 (i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

8 (ii) poses a threat to the public interest of the state; or

9 (iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed  
10 dealership, wholesaler, or auto auction.

11 (4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

12 (a) the name under which the applicant intends to conduct business and the name, address, date of  
13 birth, and social security number of any person who possesses or will possess an ownership interest in the  
14 business for which the license is sought. If the applicant is a corporation, the personal information required in  
15 this subsection (4)(a) must be provided for each corporate officer and the person designated by the corporation  
16 to manage or oversee the dealership.

17 (b) for each person subject to the provisions of subsection (4)(a), information concerning whether the  
18 person has:

19 (i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another  
20 jurisdiction and, if so, the name and address of each dealership or wholesaler; and

21 (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall  
22 provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court  
23 proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

24 (c) the name, address, and telephone number of the insurance carrier from whom the applicant has  
25 acquired ~~garage~~ GENERAL liability insurance, naming the department as a certificate holder of the policy, and the  
26 name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy  
27 number. The insurance must cover any vehicle bearing dealer or demonstrator license plates that is offered for  
28 demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business  
29 and must be for a minimum of 1 year;

30 (d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale and

1 of a permanent nonresidential building that will be maintained to store the actual physical or electronic records  
2 resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant  
3 may use more than one location to display vehicles for sale if the maximum distance between each display lot  
4 does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales  
5 records are stored does not exceed 1,000 feet.

6 (e) for each geographic location specified in the application, evidence of the applicant's compliance with  
7 applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance  
8 may be documented by means of a written verification of compliance signed by the authorized representative  
9 of the local land use planning or zoning board or the local business permitting agency.

10 (f) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement  
11 for the applicant's proposed established place of business, along with two or more photographs of the  
12 geographic location, building premises, and sign, as prescribed by the department;

13 (g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles, used  
14 motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment;

15 (h) if the applicant is seeking a new motor vehicle dealer's license:

16 (i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a  
17 written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles to be  
18 handled by the applicant;

19 (ii) the geographic location or locations, specified in writing, upon which the applicant will provide and  
20 maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona fide service  
21 department for the repair, service, and maintenance of the motor vehicles; and

22 (iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter; and

23 (i) if the applicant is applying for a new recreational vehicle dealer's license, certification that the person  
24 is recognized by a manufacturer, importer, or distributor as a dealer in new recreational vehicles.

25 (5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle, or  
26 trailer dealer's license wants to maintain more than one established place of business, the applicant shall file  
27 a separate license application for each proposed place of business and otherwise qualify for licensure at each  
28 place separately.

29 (6) Each application under this section must be accompanied by an application fee of \$5 and one or  
30 more of the following license fees based on the type of dealer's license being sought:

- 1 (a) \$25 for a new motor vehicle dealer's license;
- 2 (b) \$25 for a used motor vehicle dealer's license;
- 3 (c) \$25 for a new or used recreational vehicle dealer's license; or
- 4 (d) \$25 for a motorcycle or trailer dealer's license.
- 5 (7) The applicant for a dealer's license shall also file with the application a bond of ~~\$35,000~~ \$50,000
- 6 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle
- 7 dealer, or a trailer dealer. Applicants for a motorcycle dealer's license shall file a bond in the sum of ~~\$10,000~~
- 8 \$15,000. All bonds must be conditioned that the applicant shall conduct the business in accordance with the
- 9 requirements of the law. The bond may extend to any other type of dealer license issued to the applicant at the
- 10 same geographic location if all types of licenses are indicated on the face of the bond. All bonds must be
- 11 approved by the department, must be filed in its office, and must be renewed annually."
- 12

13 **Section 4.** Section 61-4-102, MCA, is amended to read:

14 **"61-4-102. Dealer's license numbers -- assignment, numbering, and limitation of dealer plates**

15 **-- restriction of use -- fees.** (1) Upon the licensing of a dealer, the department shall assign to the dealer a

16 distinctive serial license number as a dealer and furnish the dealer with one or more sets of numbered dealer

17 plates in accordance with the provisions of this section.

18 (2) (a) Dealer plates designed by the department must be similar to the numbered plates furnished to

19 owners of motor vehicles under 61-3-332, but they must bear:

- 20 (i) the license number assigned to the dealer;
- 21 (ii) an abbreviation for the vehicle type of the dealer's license issued, as follows:
- 22 (A) the letter "D" for a new motor vehicle dealer;
- 23 (B) the letters "UD" for a used motor vehicle dealer; or
- 24 (C) the letters "RV" for a new or used recreational vehicle dealer; and
- 25 (iii) the actual number of sets of dealer plates issued to the dealer.

26 (b) Dealer plates may not be issued to a motorcycle or trailer dealer or a wholesaler.

27 (3) Dealer plates must contain the prefix of the county in which the dealer's established place of

28 business is located, followed by the dealer's license type abbreviation, the dealer's license number, and the

29 number of sets of dealer plates issued to that dealer. For example, new motor vehicle dealer number 4 in Lewis

30 and Clark County would be numbered 5D-4, and if the dealer were issued three sets of dealer plates, they would

1 be numbered consecutively as follows, 5D-4-1, 5D-4-2, and 5D-4-3.

2 (4) (a) In addition to the fees required under the provisions of 61-4-101 and 61-4-124, an applicant for  
3 a dealer's license shall pay an annual fee of \$25; for each set of numbered dealer plates requested and issued.

4 (b) The number of dealer plates that may be issued to a dealer must be determined as follows:

5 (i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed  
6 license;

7 (ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based  
8 on the following formula:

9 (A) 5% of the first 100 vehicle sales for the previous year; plus

10 (B) 3% of the next 100 vehicle sales for the previous year; plus

11 (C) 2% of vehicle sales in excess of 200 for the previous year; and

12 (iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer's sales  
13 incrementally meet or exceed the requirements of the formula established in subsection (4)(b)(ii). However, the  
14 aggregate number of sets of dealer plates issued to a dealer under this subsection (4)(b)(iii) may not exceed  
15 the combined number allowed under subsections (4)(b)(i) and (4)(b)(ii).

16 (5) (a) A dealer is authorized to use and display dealer plates on a motor vehicle held for bona fide sale  
17 by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or  
18 employees.

19 (b) For purposes of this subsection (5):

20 (i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the  
21 importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid  
22 social security taxes as a full-time employee; and

23 (ii) the display of a Monroney label or a buyer's guide label, as required by 61-4-123(2), on a vehicle  
24 bearing dealer plates is prima facie evidence that the vehicle is offered for bona fide sale by the dealer.

25 (6) Dealer plates may not be used or displayed on vehicles used for hire, lease, or rental.

26 (7) (a) A dealer is accountable for each set of numbered dealer plates issued and, except as provided  
27 in subsection (7)(b), shall file ~~a quarterly~~ an annual report with the department certifying the disposition of each  
28 set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person  
29 primarily using each set of plates.

30 ~~(b) A dealer who fails to submit an accountability report within 30 days of the end of the calendar quarter~~

1 ~~may be subject to the imposition of a civil penalty under 61-4-105.~~

2 (b) Upon reassignment of one or more sets of dealer plates to another person, within 15 days of the  
 3 reassignment, the dealer shall notify the department, in a manner prescribed by the department, of the name,  
 4 address, and occupation of the person to whom the plates were assigned.

5 (8) (a) All numbered dealer plates expire on December 31 of the year of issue and ~~are subject to~~  
 6 ~~renewal in accordance with the provisions of 61-4-124 and this section must be renewed annually.~~

7 (b) A dealer who files the annual report required under 61-4-124 on or before December 31 of the  
 8 calendar year may display or use dealer plates assigned and registered for the prior calendar year through the  
 9 last day of February of the following year, as provided in 61-4-124(5)."

10

11 **Section 5.** Section 61-4-104, MCA, is amended to read:

12 **"61-4-104. Record of purchase or sale.** (1) (a) A dealer or wholesaler licensed under 61-4-101 shall  
 13 keep a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles  
 14 and a description of the vehicles, together with the date of purchase, sale, or consignment and the name and  
 15 address of the seller, of the purchaser, and of the alleged owner or other person from whom each vehicle was  
 16 purchased or received or to whom it was sold or delivered, as the case may be:

17 (i) the person from whom the dealer or wholesaler acquired the vehicle's ownership or, if consigned,  
 18 possessory interest in the vehicle;

19 (ii) the person to whom the dealer or wholesaler assigned the vehicle; and

20 (iii) a secured party or lienholder with a perfected security interest in the vehicle to which the dealer or  
 21 wholesaler's interest is subordinate, if any.

22 (b) The vehicle description in the case of motor vehicles must also include the vehicle identification  
 23 number and engine number, if any, and must include a statement that a number has been obliterated, defaced,  
 24 or changed if that has occurred. In the case of a trailer, semitrailer, or special mobile equipment, the record must  
 25 include the manufacturer's number and other numbers or identification marks that appear on the trailer,  
 26 semitrailer, or special mobile equipment.

27 (2) The dealer or wholesaler must also have a duly assigned certificate of ownership from the owner  
 28 of the motor vehicle to the dealer or wholesaler from the time the motor vehicle is delivered to the dealer or  
 29 wholesaler until it has been disposed of by the dealer or wholesaler. It is a violation of this part for a dealer or  
 30 wholesaler to fail to take assignment of all certificates of ownership or manufacturer's certificates of origin for

1 vehicles acquired by the licensee or to fail to assign the certificate of ownership or manufacturer's certificate of  
2 origin for vehicles sold.

3 (3) All records required to be kept in accordance with this section, in addition to the required retention  
4 of odometer disclosure information under 61-3-206(4), must be physically located and maintained within the  
5 building referred to in 61-4-101. An authorized representative of the department, upon presentation of the  
6 representative's credentials, may inspect and have access to and copy any records required under this chapter."

7

8 **Section 6.** Section 61-4-105, MCA, is amended to read:

9 **"61-4-105. Criminal penalty -- civil penalty imposed by agency.** (1) Except as provided in 61-4-143,  
10 a person violating the provisions of this part is guilty of a misdemeanor and subject to a fine in an amount of not  
11 less than \$250 and not more than \$500. For the purposes of this section, every sale of a motor vehicle in  
12 violation of the provisions of this part is a separate offense.

13 (2) In addition to all other penalties created by this part, the department is authorized to take appropriate  
14 enforcement action on its own initiative. Except as provided in 61-4-143, a person violating the provisions of this  
15 part may be subject to administrative action, in accordance with the contested case procedures of Title 2,  
16 chapter 4, as follows:

- 17 (a) a civil penalty not to exceed \$1,000 for each violation;  
18 (b) suspension of the motor vehicle dealer, wholesaler, or auto auction license not to exceed ~~5 working~~  
19 7 days;  
20 (c) revocation ~~or denial~~ of the motor vehicle dealer, wholesaler, or auto auction license; or  
21 (d) any combination of subsections (2)(a) through (2)(c)."

22

23 **Section 7.** Section 61-4-107, MCA, is amended to read:

24 **"61-4-107. Cease and desist order.** (1) When the department has reasonable cause to believe, from  
25 information furnished to it or from an investigation made by it, that a person is engaged in any business  
26 regulated by this part without being licensed as required or if a dealer licensed under this part is conducting an  
27 off-premises sale without a permit, as required by 61-4-123(4), it shall immediately issue and serve upon the  
28 person, in person or by certified mail, a cease and desist order requiring the person to cease and desist from  
29 further engaging in that business or from conducting an off-premises sale without a permit. If the person fails  
30 to comply with the order, the department shall file an action in the district court of Lewis and Clark County to

1 restrain and enjoin the person from engaging in the business. The court shall proceed in the action as in other  
2 actions for injunctions.

3 ~~(2) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles,~~  
4 ~~if the certificates of ownership are not held in the offeror's name, in any calendar year is prima facie evidence~~  
5 ~~that the offeror is engaged in the business of dealing motor vehicles and must be licensed under this chapter.~~

6 ~~(3)(2)~~ When the department has reasonable cause to believe, from an investigation made by it or  
7 information furnished to it by a law enforcement officer, that a dealer or wholesaler has been improperly licensed,  
8 has used a dealer's license in a manner other than as authorized in this title, has provided a material  
9 misstatement of fact in an application for a license, is not qualified as a dealer or wholesaler under the  
10 requirements of this title, or has engaged in criminal conduct that renders the dealer or wholesaler unfit for  
11 licensure, the department may revoke the dealer's or wholesaler's license."  
12

13 **Section 8.** Section 61-4-111, MCA, is amended to read:

14 **"61-4-111. Used motor vehicles -- transfer to and from dealers.** (1) ~~A~~ Except as provided in  
15 61-4-124(6), a licensed dealer, broker, or wholesaler who intends to resell a used motor vehicle and who  
16 operates the vehicle only for demonstration purposes:

17 (a) is exempt from registration under 61-3-201(2) when applying for a certificate of ownership; and

18 (b) may transfer or receive ownership of a motor vehicle by use of a dealer reassignment section on  
19 a certificate of ownership; however, when the allotted number of dealer reassignment sections on a certificate  
20 of ownership has been completed, ownership of the vehicle may not be transferred until an application for a  
21 certificate of ownership has been submitted by the dealer to the department and a new certificate of ownership  
22 has been issued.

23 (2) Upon the transfer of a used motor vehicle to a person other than a licensed dealer, broker, or  
24 wholesaler, the following acts are required of the dealer on or before the times set forth in this subsection:

25 (a) Prior to delivery of the vehicle to the purchaser, the dealer shall issue and affix to the rear window  
26 of the vehicle a 20-day permit in a form to be prescribed by the department and containing the name and  
27 address of the purchaser, date of sale, name and address of the dealer, and a description of the vehicle,  
28 including its serial number. There must be imprinted on the permit in bold letters the following statement: "IT IS  
29 UNLAWFUL TO PLACE LICENSE PLATES UPON THIS VEHICLE UNTIL REGISTERED AT THE OFFICE OF  
30 THE COUNTY TREASURER". One copy of the permit must be delivered by the dealer to the county treasurer

1 in the manner prescribed in subsection (2)(b), and a copy must be retained by the dealer for the dealer's file. It  
2 is unlawful for the dealer to issue more than one permit per vehicle sale.

3 (b) Within 4 working days following the date of delivery of the vehicle, the dealer shall forward to the  
4 county treasurer of the county where the purchaser resides the certificate of ownership and certificate of  
5 registration (if the certificates are then in the dealer's possession), with an application for registration executed  
6 by the new owner in accordance with the provisions of 61-3-322, and a copy of the permit affixed to the vehicle  
7 by the dealer. The department, upon receipt of the documents from the county treasurer, together with the  
8 conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of  
9 registration, together with a statement of any conditional sales contract, mortgage, or other lien as provided in  
10 61-3-202. Transmission of the documents by the dealer to the county treasurer may be accomplished either by  
11 personal delivery or by first-class mail, in which event they are considered to have been delivered at the time  
12 of mailing.

13 (c) If the dealer is unable to forward the certificate of ownership or certificate of registration within the  
14 time set forth in subsection (2)(b) because the certificate is lost, is in the possession of third parties, or is in the  
15 process of reissuance in this state or elsewhere, the dealer shall comply in all other respects with the provisions  
16 of subsection (2)(b) and shall forward the missing document or documents to the county treasurer, either  
17 personally or by first-class mail, within 3 days after receipt.

18 (3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle is  
19 considered to have passed to the purchaser as of the date of the delivery of the vehicle to the purchaser by the  
20 dealer, and the dealer has no further liability or responsibility with respect to the processing of registration.

21 (4) For purposes of this section, "motor vehicle" includes a trailer as defined in 61-1-111."  
22

23 **Section 9.** Section 61-4-120, MCA, is amended to read:

24 **"61-4-120. Application for auto auction license -- general regulations.** (1) A person, firm,  
25 association, or corporation that takes possession of a motor vehicle owned by another person through  
26 consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest  
27 bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail  
28 or otherwise in the office of the department a verified application for licensure as an auto auction. The application  
29 must be made in the following manner:

30 (a) Each application and all of the information contained in it must be verified by the department or an

1 authorized representative of the department on a form to be furnished by the department for that purpose. The  
2 application must provide the following information:

3 (i) the name in which the business is to be conducted and the location of premises, including street  
4 address, city, county, and state, where records are kept, sales are made, and motor vehicle stock is displayed  
5 as an established place of business that displays a sign indicating the firm name and that vehicles are offered  
6 for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum  
7 distance of 150 feet.

8 (ii) the name and address of all owners or persons having an interest in the business. In the case of a  
9 corporation, the names and addresses of the president and secretary are sufficient.

10 (iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles,  
11 trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed  
12 auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer,  
13 importer, distributor, or representative, for the purpose of conducting a closed-factory fleet sale to dispose of new  
14 motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the  
15 purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their  
16 respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this  
17 section shall notify and update the department with current fleet sale agreements between the auto auction and  
18 franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor  
19 licensed under part 2 of this chapter.

20 (b) Each application must be accompanied by a bond of ~~\$35,000~~ \$50,000 and must be conditioned that  
21 the applicant shall conduct business in accordance with the requirements of the law. All bonds must run to the  
22 state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

23 (2) An auto auction's license must be renewed and paid for annually to the department, and an  
24 application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant  
25 is \$500 and for subsequent renewal applications is \$100 each year. Upon receipt of a properly completed  
26 application, fee, and bond, the department shall issue the auto auction license and assign an auto auction  
27 license number for each applicant in a manner determined by the department. Auto auctions dealing in motor  
28 vehicles may sell only to licensed dealers and wholesalers.

29 (3) Auto auctions that are licensed under this section and that hold a current license number may issue  
30 temporary permits, which may be displayed and used by a buyer to operate an unregistered vehicle purchased

1 from the auto auction. The temporary permit is valid for a period of 72 hours from the time of purchase and may  
2 be used only for the purpose of driving or transporting a vehicle from the auction premises to the purchaser's  
3 established place of business or point of destination. Temporary permits must be on a form prescribed by the  
4 department and must contain the name, address, and license number of the purchaser, the date of sale, the  
5 name, address, license number, and authorized signature of the auto auction, and a description of the vehicle,  
6 including its serial number. The department shall collect a fee of \$10 from the auto auction for each temporary  
7 permit, and the auto auction may charge a vehicle purchaser no more than \$10 for the issuance of each permit  
8 to offset the cost of the permit. It is unlawful for the auto auction to issue more than one temporary permit per  
9 vehicle sale.

10 (4) A licensed auto auction may apply for and may be authorized by the department to purchase and  
11 use license plates of a type and amount approved by the department, upon payment of a fee to the department  
12 to offset the cost of production. Licensed auto auctions may use the license plates to transport inventory vehicles  
13 to and from a point of storage or a point of delivery in this state and to and from the auto auction's place of  
14 business, for road testing authorized vehicles, or for moving vehicles for purposes of repairing, painting,  
15 upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the  
16 rear of the vehicle. Auto auctions may appoint designated persons, partnerships, corporations, service stations,  
17 or repair garages to use the license plate only when conducting work for the auto auction involving repairing,  
18 painting, upholstering, polishing, or performing similar types of work upon a vehicle. Upon application for an auto  
19 auction license, the applicant, if requesting the license plates, shall submit a sworn affidavit on a form prescribed  
20 by the department, listing each authorized person designated by the auction to use the license plates. The auto  
21 auction is responsible for reporting any changes to the affidavit within 72 hours after the amendment has  
22 occurred. An auto auction licensed under the provisions of this section is liable for the proper use of the license  
23 plates, which may not be used for private purposes. The department may revoke an auto auction's 72-hour  
24 temporary permit and license plate privileges if an auction issues, authorizes the use of, or uses a temporary  
25 permit or the license plate in violation of the provisions of this section.

26 (5) (a) Each auto auction shall keep a book or record, in a form and manner subject to approval by the  
27 department, of the purchases, sales, or exchanges or the receipts for the purpose of sale of any motor vehicle,  
28 a properly completed copy of a temporary permit issued to a vehicle purchaser, the date of title transfer, and a  
29 description of the motor vehicle, together with the name and address of the seller, the purchaser, and the alleged  
30 owner or other person from whom the motor vehicle was purchased or received or to whom it was sold or

1 delivered. The description in the case of a motor vehicle must include:

2 (i) the vehicle identification number and engine number, if any; and

3 (ii) a statement that a number has been obliterated, defaced, or changed, if it has.

4 (b) An auto auction licensed under this section shall validate the sale of a motor vehicle through its  
5 auction by stamping its name and license number upon the certificate of ownership at a location on the front or  
6 back of the certificate, at the margin in the assignment section as executed between the transferor and  
7 transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the  
8 certificate between the transferor and transferee. If the certificate of ownership lacks adequate space for the auto  
9 auction to place its stamp, the auction may provide the transferee a copy of the auction invoice bearing the:

10 (i) name and license number of the auction, along with an indication of the vehicle year, make, model,  
11 and identification number;

12 (ii) name, address, and signature of the transferor;

13 (iii) name, license number, and signature of the transferee; and

14 (iv) date the vehicle was sold through the auction.

15 (c) The invoice must be attached to the certificate of ownership and must be presented to the  
16 department with any application for title.

17 (d) An auto auction shall retain, for 5 years, odometer disclosure information, including the name of the  
18 owner on the date the auto auction took possession of the motor vehicle, the name of the buyer, the vehicle  
19 identification number, and the odometer reading on the date the auto auction took possession of the motor  
20 vehicle. The odometer information may be retained in any way that is systematically retrievable and is not  
21 required to be maintained on any special disclosure form. The information may be part of the auction receipt or  
22 invoice or be maintained as a portion of a computer database or manual file. An auto auction that executes a  
23 transfer of ownership as an agent on behalf of a seller or buyer is liable for providing an odometer disclosure  
24 statement for the seller or an odometer disclosure acknowledgment for the buyer under the provisions of  
25 61-3-206."

26

27 **Section 10.** Section 61-4-123, MCA, is amended to read:

28 **"61-4-123. Dealer requirements and restrictions.** (1) A dealer may not offer for sale, trade, or  
29 consignment any vehicle type not authorized by the license issued to the dealer by the department or use a  
30 dealer or demonstrator plate on a vehicle of a type for which the dealer is not licensed.

1           (2) A dealer may not display at the dealer's established place of business or any approved off-premises  
2 sale location a vehicle offered for sale, trade, or consignment unless the Monroney label required for new motor  
3 vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used motor vehicles pursuant to 16  
4 CFR, part 455, is affixed to the side window of the vehicle or is conspicuously displayed within the vehicle in a  
5 fashion that is readily readable by a customer.

6           (3) Except as provided in subsection (4), a dealer may not sell or display a motor vehicle offered for sale  
7 at any geographic location other than that of the dealer's established place of business as listed on the dealer's  
8 license.

9           (4) (a) A dealer may conduct an off-premises display and sale at a geographic location other than that  
10 of the dealer's established place of business as listed on the dealer's license if the dealer notifies the department  
11 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises  
12 display and sale and obtains a permit from the department. The department may require proof from the dealer  
13 that the location proposed for the off-premises display and sale is in compliance with local zoning ordinances.  
14 Except for recreational vehicle dealers, an off-premises display and sale must be conducted within the county  
15 of the dealer's licensed location. The display and sale may not exceed 10 consecutive days, and a licensed  
16 dealer may not conduct more than 10 off-premises displays and sales during any 1 calendar year.

17           (b) A dealer may display one or more vehicles inside an airport terminal or shopping mall without  
18 obtaining an off-premises display and sale permit if no actual sales are made, or could be made, at the terminal  
19 or mall.

20           (c) Upon prior written notice to the department, a dealer may display one vehicle at a geographic  
21 location other than that of the dealer's established place of business as listed on the dealer's license if no actual  
22 sales are made, or could be made, at the display location and the display:

23           (i) conspicuously promotes or supports an event or a program sponsored by a nonprofit corporation or  
24 association organized and operated exclusively for religious, charitable, scientific, or educational purposes and  
25 the vehicle is displayed at a location where the event is being held or the program is being promoted; or

26           (ii) conspicuously promotes a joint commercial endeavor between the dealer and another clearly  
27 identified business entity and the vehicle is displayed on premises owned or leased by the other business entity  
28 and where the other entity regularly conducts its business. A display under this subsection (4)(c)(ii) may not  
29 exceed 90 days.

30           (5) If more than one dealer displays vehicles and maintains an established place of business at the

1 same geographic location, each dealer shall ensure that all vehicle records, office facilities, and inventory, if  
 2 applicable, are physically segregated from those of the other dealer and clearly identified and attributed to the  
 3 appropriate dealer.

4 (6) A dealer shall install and maintain telephone service at the dealer's established place of business.  
 5 The telephone service must be listed in the directory assistance that applies to the area in which the business  
 6 is located.

7 (7) A dealer shall conspicuously post at the dealer's established place of business written notice  
 8 indicating the regular and customary office hours maintained by the dealer.

9 (8) (a) A dealer shall carry and continuously maintain a garage GENERAL liability insurance policy that  
 10 covers any vehicle bearing a set of dealer plates or a demonstrator plate that is offered for demonstration or loan  
 11 to, or otherwise may be operated by, a customer in the regular course of the dealer's business operations.

12 (a)(b) It is the responsibility of the A dealer to must ensure that the department is named as a certificate  
 13 holder on any garage GENERAL liability insurance policy held by the dealer, that the minimum term of the policy  
 14 is 1 year, and that a lapse of insurance does not occur as a result of cancellation or termination of a previously  
 15 certified policy.

16 ~~\_\_\_\_\_ (c) An insurance carrier that underwrites a garage liability insurance policy covering a dealer licensed~~  
 17 ~~under this part shall give written notice to the department of the cancellation or termination of the policy.~~

18 ~~(b)(d)(c)~~ This subsection (8) does not relieve a dealer of the mandatory vehicle liability insurance  
 19 obligation imposed under chapter 6 of this title.

20 (9) A dealer shall display at the dealer's established place of business at least one sign stating the name  
 21 of the business and indicating that vehicles are offered for sale, trade, or consignment. The letters of the sign  
 22 must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum  
 23 distance of 150 feet."  
 24

25 **Section 11.** Section 61-4-124, MCA, is amended to read:

26 **"61-4-124. License renewal -- fee -- dealer's license suspension Annual report -- filing and**  
 27 **registration fees -- grace period for dealer and demonstrator plates -- restrictions imposed upon failure**  
 28 **to file.** (1) On or before December 31 of each year, a dealer shall apply to the department for renewal of the  
 29 dealer's license for an additional 1-year period.

30 ~~\_\_\_\_\_ (2) (a) To qualify for renewal, a dealer shall submit a completed application, in a form prescribed by the~~

1 ~~department, updating prior submitted information~~ submit an annual report, in a form or manner prescribed by  
 2 the department, to the department to advise the department of any changes concerning owner identity, other  
 3 ownership interest interests, felony conduct, ~~garage~~ GENERAL liability insurance status, and surety bond filings,  
 4 as originally required under 61-4-101, that may have occurred in that calendar year and ~~providing to provide~~ any  
 5 other relevant information requested by the department.

6 ~~(b)(2)~~ (a) The department may also require a ~~renewal applicant dealer~~ to submit one or more current  
 7 photographs of the dealer's established place of business or the signage for the business with the dealer's  
 8 annual report.

9 ~~(c)~~(b) If a dealer seeks to change the geographic location of the dealer's established place of business,  
 10 the dealer shall also provide information concerning local land use planning, zoning, and business permitting  
 11 compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of  
 12 61-4-101.

13 (3) Except as provided in subsection (4)(c), ~~a license renewal application~~ the annual report must be  
 14 accompanied by a \$5 ~~application filing~~ fee and one or more of the following ~~license dealer registration~~ fees,  
 15 depending based on the type of license renewal being sought held by the dealer:

16 (a) \$25 for a new motor vehicle, used motor vehicle, new recreational vehicle, or used recreational  
 17 vehicle dealer's license; and

18 (b) \$25 for a motorcycle or trailer dealer's license.

19 (4) (a) Except as provided in subsections (4)(b) and (4)(c), a used motor vehicle dealer ~~seeking license~~  
 20 ~~renewal~~ shall also certify, under penalty of law, to the retail sale of 12 or more used motor vehicles during the  
 21 ~~expiring license term~~ calendar year for which the annual report is filed. A used motor vehicle dealer licensed for  
 22 less than a full calendar year in the ~~expiring license term~~ year for which the report is filed shall certify, under  
 23 penalty of law, to the retail sale of an average of at least one used motor vehicle ~~a~~ for each calendar month or  
 24 portion of a calendar month, ~~for which that~~ the expiring license was in effect.

25 (b) The minimum retail sales requirements of this subsection (4) do not apply to a dealer ~~seeking to~~  
 26 ~~renew~~ filing an annual report for a used motor vehicle dealer's license and either a new motor vehicle dealer's  
 27 license or a new recreational vehicle dealer's license.

28 (c) (i) A used motor vehicle dealer who cannot certify, under penalty of law, to the number of retail sales  
 29 required under subsection (4)(a) in a calendar year for which the report is filed must pay a fee of \$25 in addition  
 30 to the filing and registration fees required in subsection (3).

1           ~~(i)(ii) To qualify for renewal, a A used motor vehicle dealer who is also a qualified tow truck operator,~~  
 2           ~~as defined in 61-8-903, shall and who, in the dealer's annual report, cannot~~ certify, under penalty of law, to the  
 3           ~~retail sale of five or more used motor vehicles during the expiring license term or calendar year for which the~~  
 4           ~~report is filed, shall pay a fee of \$25 in addition to the application and license fee filing and registration fees~~  
 5           ~~required in subsection (3).~~

6           ~~(ii)(iii) A renewal applicant dealer licensed as a motor vehicle wrecking facility under Title 75, chapter~~  
 7           ~~10, part 5, is exempt from the minimum retail sales reporting requirements of subsection (4)(a), as well as the~~  
 8           ~~additional renewal or the lower minimum sales requirements of this subsection (4).~~

9           ~~(iii) If a used motor vehicle dealer also qualified as a tow truck operator loses the status of a qualified~~  
 10           ~~tow truck operator under 61-8-903, the dealer's license may be retained for the remainder of the license term,~~  
 11           ~~but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).~~

12           ~~————(iv) If a used motor vehicle dealer also licensed as a motor vehicle wrecking facility ceases to do~~  
 13           ~~business as a wrecking facility and surrenders the wrecking facility license to the department of environmental~~  
 14           ~~quality, the dealer's license may be retained for the remainder of the license term, but after the current term, the~~  
 15           ~~dealer is subject to the retail sales requirements of subsection (4)(a).~~

16           ~~————(d) A dealer who fails to meet the retail sales requirements for license renewal under subsection (4)(a)~~  
 17           ~~is not eligible for license renewal and may not submit an application for another used motor vehicle dealer's~~  
 18           ~~license or a wholesaler's license for a period of 12 months from the expiration of the dealer's most recent license~~  
 19           ~~term.~~

20           ~~(5) A dealer whose completed renewal application annual report is received by the department on or~~  
 21           ~~before December 31 of the expiring license term calendar year may, if necessary, continue dealership operations~~  
 22           ~~and display or use dealer or demonstrator plates under the expired license assigned and registered for the prior~~  
 23           ~~calendar year through the last day of February of the following year.~~

24           ~~(6) (a) On or after January 1 of the year following the calendar year for which an annual report and filing~~  
 25           ~~and registration fees are due under this section, the department may not renew dealer or demonstrator plates~~  
 26           ~~for a dealer who has not filed the annual report and paid the fees due under this section.~~

27           ~~(b) On or after March 1 of the year following the calendar year for which an annual report and filing and~~  
 28           ~~registration fees are due under this section, the department may not issue or transfer a title under the provisions~~  
 29           ~~of 61-4-111(1) to or from a dealer who has not filed the annual report and paid the fees, and the department shall~~  
 30           ~~initiate an administrative action under the provisions of 61-4-105(2) to revoke the dealer's license unless the~~

1 dealer voluntarily surrenders the license, along with any previously assigned dealer and demonstrator plates,  
2 to the department for cancellation."

3

4 **Section 12.** Section 61-4-125, MCA, is amended to read:

5 **"61-4-125. Wholesaler's license.** (1) (a) The department is authorized to issue a wholesaler's license  
6 to any person ~~whom~~ it determines is qualified to hold a license under the provisions of this section.

7 (b) A wholesaler is authorized to sell used motor vehicles, used recreational vehicles, trailers,  
8 motorcycles, quadricycles, or special mobile equipment. However, a wholesaler may sell a vehicle only to a  
9 dealer, an auto auction, or another wholesaler. Retail sale of vehicles by a wholesaler is not allowed.

10 (c) A wholesaler's license issued by the department has a term of 1 calendar year, commencing on or  
11 after January 1 in the year of issue and expiring on December 31 of the same year.

12 (d) The department shall design and issue wholesaler demonstrator plates of a similar sequence to  
13 demonstrator plates issued to dealers but that conspicuously display the term "wholesaler" or the abbreviation  
14 "W".

15 (2) To qualify for a wholesaler's license, an applicant shall submit a completed application, in a form  
16 prescribed by the department, that provides the following:

17 (a) the name under which the applicant intends to conduct business and the name, address, date of  
18 birth, and social security number of any person who possesses or will possess an ownership interest in the  
19 business for which the license is sought. If the applicant is a corporation, the personal information required in  
20 this subsection (2)(a) must be provided for each corporate officer and the person designated by the corporation  
21 to manage or oversee the dealership.

22 (b) for each person subject to the provisions of subsection (2)(a), information concerning whether the  
23 person has:

24 (i) an ownership interest in a vehicle dealership or wholesaler business in Montana or another  
25 jurisdiction and, if so, the name and address of each dealership or wholesaler; and

26 (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, the  
27 applicant shall provide a summary of the conduct resulting in the felony charge, including the dates of the  
28 conduct and any judicial proceeding pertaining to the conduct and the name and address of any court in which  
29 the matter was heard;

30 (c) the name, address, and telephone number of the insurance carrier from whom the applicant has

1 acquired ~~garage~~ GENERAL liability insurance, naming the department as a certificate holder under the policy, and  
2 the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy  
3 number. The insurance must cover any vehicle bearing a wholesaler demonstrator plate that is offered for  
4 demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business  
5 and must be for a minimum of 1 year.

6 (d) the street address of the permanent nonresidential building or office where business records will be  
7 kept and will be made available for inspection by the department; and

8 (e) a bond of ~~\$35,000~~ \$50,000 filed with the department on behalf of the applicant. The bond must be  
9 conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond  
10 must be approved by the department and subject to annual renewal.

11 (3) The application fee for a wholesaler's license is \$5, and the license fee is \$25. Both fees must  
12 accompany an original or renewal wholesaler's license application.

13 (4) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a  
14 wholesaler may be issued and is authorized to display and use a wholesaler demonstrator plate on any type of  
15 vehicle that a wholesaler is authorized to sell. The fee for a wholesaler demonstrator plate is ~~\$3~~ \$5. To the extent  
16 not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129.

17 (5) (a) A wholesaler's license must be renewed annually, and application for renewal must be filed on  
18 or before December 31 of the expiring license term.

19 (b) To qualify for renewal of a wholesaler's license, a wholesaler shall submit a completed application,  
20 in a form prescribed by the department, updating prior submitted information, as originally supplied under  
21 subsection (2).

22 (c) Additionally, the wholesaler shall certify, under penalty of law, that 12 or more vehicles of the type  
23 authorized under the license were sold by the wholesaler to a dealer, auto auction, or another wholesaler during  
24 the expiring license term. A wholesaler who was licensed for less than a full calendar year in the expiring term  
25 shall certify, under penalty of law, to the sale of an average of at least one vehicle a calendar month, or portion  
26 of a calendar month, during which the expiring license was in effect.

27 (d) ~~A wholesaler who fails to meet the sales requirements for license renewal under this section is not~~  
28 ~~eligible for license renewal and may not submit an application for another wholesaler's license or a used motor~~  
29 ~~vehicle dealer's license for a period of 12 months from the expiration of the wholesaler's most recent license~~  
30 ~~term~~ CANNOT, UNDER PENALTY OF LAW, CERTIFY THE NUMBER OF VEHICLE SALES REQUIRED UNDER SUBSECTION (5)(C)

1 SHALL PAY A FEE OF \$25 IN ADDITION TO THE FEES REQUIRED IN SUBSECTION (3).

2 (6) A wholesaler whose completed renewal application has been received by the department on or  
3 before December 31 of the expiring license term may, if necessary, operate the business and display wholesaler  
4 demonstrator plates under the expired license through the last day of February of the following year."

5

6 **Section 13.** Section 61-4-129, MCA, is amended to read:

7 **"61-4-129. Assignment of demonstrator plates.** (1) A dealer or wholesaler may purchase  
8 demonstrator plates at a fee of ~~\$3~~ \$5 a plate. Demonstrator plates must be issued for each vehicle type for which  
9 a dealer's license is required under 61-4-102. Demonstrator plates must be designed by the department in a  
10 manner that distinguishes demonstrator plates from dealer plates.

11 (2) (a) New and used motor vehicle or recreational vehicle demonstrator plates may be used on a  
12 vehicle displaying a Monroney label or a buyer's guide label, as required by 61-4-123(2) that is:

13 (i) ~~to demonstrate being demonstrated and offered for sale,~~ for not more than 72 hours, ~~a vehicle held~~  
14 ~~for sale,~~ when operated by an individual holding a valid operator's license;

15 (ii) ~~on vehicles~~ owned by the dealership when operated by an officer or bona fide full-time employee of  
16 the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;

17 (iii) ~~on vehicles~~ being tested for repair;

18 (iv) ~~on vehicles~~ being moved to or from a dealer's place of business for sale;

19 (v) ~~on vehicles~~ being moved to or from service and repair facilities before sale; and

20 (vi) ~~on vehicles~~ being moved to or from exhibitions within the state, provided the exhibition does not  
21 exceed a period of 20 days.

22 (b) Mobile home and trailer demonstrator plates may be used:

23 (i) on units being hauled to or from the place of business of the manufacturer and the place of business  
24 of the dealer or to and from places of business of the dealer;

25 (ii) on mobile homes being hauled to a customer's location for setup after sale;

26 (iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle, provided that a  
27 dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;

28 (iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile  
29 home and travel trailer dealer's license plates of the dealer owning the motor vehicle; and

30 (v) on units being moved to or from exhibitions within the state, provided the exhibition does not exceed

1 a period of 20 days.

2 (c) A vehicle being operated in accordance with this subsection (2) need only display one demonstrator  
3 plate conspicuously on the rear of the vehicle.

4 (3) A dealer who files the annual report required under 61-4-124 on or before December 31 of the  
5 calendar year may display or use demonstrator plates assigned and registered for the calendar year through  
6 the last day of February of the following year, as provided in 61-4-124(5)."

7

8 **Section 14.** Section 61-4-206, MCA, is amended to read:

9 **"61-4-206. Objections -- hearing.** (1) A person who receives or is entitled to receive a copy of a notice  
10 provided for in 61-4-205(4) may object to the approval of the proposed action by filing a written objection with  
11 the department within 15 days from the date the notice was received by the person entitled to receive the notice.  
12 If an objection is not filed within 15 days from the date the notice was received, the proposed action must be  
13 approved.

14 (2) If a timely objection has been filed, the department shall appoint a hearings officer to preside over  
15 and conduct a contested case hearing under the provisions of Title 2, chapter 4, part 6. Within 30 days of the  
16 order of appointment, the hearings officer shall enter an order fixing the time, which must be within 30 days of  
17 the date of the order, and place of a hearing on the objection for a scheduling conference for the contested case  
18 and shall send to the parties by certified mail with return receipt requested a copy of the scheduling conference  
19 order and the notice provided for in 61-4-205(4).

20 ~~(3) The department may upon request continue the date of hearing for a period of 30 days and may~~  
21 ~~upon application, but not ex parte, continue the date of hearing for an additional period of 30 days.~~

22 ~~(4)~~(3) Upon hearing or upon objection to the establishment of a new motor vehicle dealership, the  
23 franchisor has the burden of proof to establish that good cause exists to terminate, not continue, or not establish  
24 the franchise.

25 ~~(5)~~(4) The rules of evidence for a hearing provided for in subsection (2) are the same as those found  
26 in Title 2, chapter 4. The department shall reasonably apportion all costs related to the contested case hearing  
27 between the parties.

28 ~~(6)~~(5) The department may issue subpoenas, administer oaths, and compel the attendance of witnesses  
29 and production of books, papers, documents, and all other evidence. The department may apply to the district  
30 court of the county in which the hearing is held for a court order enforcing this section. The hearing must be

1 conducted pursuant to Title 2, chapter 4.

2 ~~(7)(6)~~ A transcript of the testimony of each witness taken at the hearing must be made and preserved.  
 3 Within ~~30~~ 60 days after the hearing, the department shall make written findings of fact and conclusions and enter  
 4 a final order.

5 ~~(8)(7)~~ Any party to the hearing before the department may appeal pursuant to Title 2, chapter 4.

6 ~~(9)(8)~~ The franchise agreement must continue in effect until the adjudication by the department on the  
 7 verified complaint and the exhaustion of all appellate remedies available to the franchisee. The franchisor and  
 8 the franchisee shall abide by the terms of the franchise and the laws of Montana during the appeals process."  
 9

10 **Section 15.** Section 61-4-301, MCA, is amended to read:

11 **"61-4-301. Permit and transit plates for new vehicles being transported by driveaway or towaway**  
 12 **methods -- used mobile homes.** (1) (a) A person, firm, partnership, or corporation, regularly and lawfully  
 13 engaged in the transportation of new vehicles over the highways of this state from manufacturing or assembly  
 14 points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or  
 15 provinces by the driveaway or towaway methods, where the vehicles being driven, towed, or transported by the  
 16 saddle-mount, towbar, or full-mount methods, or a lawful combination of these methods, will be transported over  
 17 the highways of the state but once, may annually apply to the department of justice for a permit to use the  
 18 highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the  
 19 application, that department shall issue an annual permit to the applicant.

20 (b) A person moving used mobile homes from a point outside the state to a point inside the state may  
 21 apply to the department for the permit authorized pursuant to subsection (1)(a).

22 (2) (a) The permitholder may also apply to the department of justice for ~~a sufficient number of distinctive~~  
 23 ~~transit plates or devices~~ five sets of transit plates showing the permit number for identification of the vehicles  
 24 being transported by the permitholder, and the plates or devices may be used on a vehicle being driven, towed,  
 25 or transported by and under the control of the permitholder. ~~That~~ The department shall collect the additional sum  
 26 of ~~\$1~~ \$10 for each ~~pair~~ set of transit plates or devices applied for and issued.

27 (b) A permitholder may apply for and receive more than five sets of transit plates in a calendar year if  
 28 the permitholder can demonstrate, to the satisfaction of the department, that additional sets of plates are needed  
 29 based on the number of trip fees reported in Montana in the previous calendar year. The department shall collect  
 30 \$10 for each additional set of transit plates issued.

1           (3) The department of justice shall retain the permit and plate fees to defray costs of administering  
2 61-4-301 through 61-4-308.

3           (4) The permit and transit plates or devices expire on December 31 of each year."  
4

5           NEW SECTION. Section 16. Codification instruction. [Sections 1 and 2] are intended to be codified  
6 as an integral part of Title 61, chapter 4, part 1, and the provisions of Title 61 apply to [sections 1 and 2].  
7

8           NEW SECTION. Section 17. Effective date. [This act] is effective January 1, 2004.  
9

10          NEW SECTION. Section 18. Applicability. [This act] applies to any dealer who had a valid dealer  
11 license as of December 31, 2003, and to any dealer license, license plates, or permits issued on or after January  
12 1, 2004.  
13

- END -